

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: November 16, 2005
Bulk Item: Yes X No

Division: Growth Management
Department: N/A
Staff Contact Person: Timothy J. McGarry

AGENDA ITEM WORDING:

A Resolution to authorize the Growth Management Director to toll time limit requirements for obtaining a building permit or required permit inspections for properties adversely impacted by the Court ordered permanent injunction on the issuance of new flood insurance policies under the National Flood Insurance Program pending resolution of same.

ITEM BACKGROUND:

On September 9, 2005, the U.S. District Court for the Southern District of Florida entered a permanent injunction preventing the issuance of flood insurance policies for new residential and commercial development commenced after September 9, 2005, until such time as the U.S. Fish and Wildlife Service has demonstrated compliance with that Court's order of March 20, 2005. This injunction will have an adverse impact on many property owners who have either received a ROGO allocation award to build a new home or have already received a building permit to construct a new residence, who will be unable to obtain financing for construction without flood insurance. The time limits in the County Code for obtaining a building permit under a ROGO award or required inspections will result in the expiration of the building permit and/or ROGO allocation award for these individuals within 60 days of issuance unless tolled pending resolution of the injunction.

The attached resolution, which was prepared by staff at the direction of the Board of County Commissioners, gives authority to the Growth Management Division Director to toll the time limits on the expiration of ROGO allocation awards and building permits for those properties affected by the injunction, where the applicant or permit holder can provide written proof of the denial of either flood insurance or financing due to the inability to obtain flood insurance.

PREVIOUS RELEVANT BOCC ACTION:

On October 19, 2005, the Board directed staff to prepare a resolution to authorize tolling the time limits on ROGO allocation awards and building permits.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: <u>N/A</u>	BUDGETED: Yes <u> </u> No <u> </u>
COST TO COUNTY: <u>N/A</u>	SOURCE OF FUNDS: <u> </u>
REVENUE PRODUCING: Yes <u> </u> No <u> </u>	AMOUNT PER MONTH <u> </u> Year <u> </u>

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:



Timothy J. McGarry, AICP

DOCUMENTATION: Included X Not Required

DISPOSITION: **AGENDA ITEM #**

RESOLUTION -2005

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA AUTHORIZING THE GROWTH MANAGEMENT DIVISION DIRECTOR TO TOLL THE TIME LIMIT REQUIREMENTS FOR OBTAINING A BUILDING PERMIT OR REQUIRED PERMIT INSPECTIONS FOR PROPERTIES ADVERSELY IMPACTED BY THE COURT ORDERED PERMANENT INJUNCTION ON THE ISSUANCE OF NEW FLOOD INSURANCE POLICIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM PENDING RESOLUTION OF SAME, OR 180 DAYS, WHICHEVER FIRST OCCURS.

WHEREAS, the U.S. District Court for the Southern District of Florida entered a permanent injunction preventing the Federal Emergency Management Agency ("FEMA") from issuing flood insurance policies for residential and commercial development commenced after September 9, 2005, until such time as U.S. Fish and Wildlife Service has demonstrated compliance with that Court's order of March 20, 2005; and

WHEREAS, the Court's Orders have imposed severe limitations on new construction for all but the most wealthy property owners in the affected areas; and

WHEREAS, the Growth Management Division staff estimates that over 60 percent of the applicants recently receiving ROGO allocation awards are adversely affected by the injunction; and

WHEREAS, Section 9.5-122.1(g), Monroe County Code dictates that the ROGO allocation award and corresponding building permit expire within sixty (60) days of notification from the date of the mailing of the allocation award; and

WHEREAS, the Florida Building Code and Section 6-20, Monroe County Code provides that permits shall become null and void unless work authorized by the permit is commenced within 180 days or required inspections are conducted within 180 days from the last required inspection; and

WHEREAS, an unknown number of these applicants receiving a ROGO allocation award or permit holders may be financially unable to proceed with the financing and construction of their homes without federally backed flood insurance; and

WHEREAS, it is uncertain how long the Court ordered injunction on issuance of flood insurance under the National Flood Insurance Program will continue; however, it is certain to have an adverse impact on those applicants who require this insurance to construct new homes; and

WHEREAS, at the Board of County Commissioners' October 19, 2005, regularly scheduled meeting, the Growth Management Division staff received conceptual approval to prepare a resolution that will authorize the Growth Management Division to toll the permit time limits for those applicants with ROGO allocation awards and other permit holders who are unable to proceed with the financing and construction of their residential projects; and

WHEREAS, the Growth Management Division staff has prepared this resolution based on the direction provided by the Board of County Commissioners.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The Growth Management Division Director or his designee is authorized to toll the time limits of Section 9.5-122.1(g) and Section 6-20, Monroe County Code for any applicant receiving a ROGO allocation award or building permit holder that meets the following criteria:

- 1) The property, which is the subject of the ROGO allocation award or building permit, is on the list of parcels subject to the Court ordered injunction for new flood insurance; and
- 2) The holder of the ROGO allocation award or building permit shall provide written proof to the Building Department of the denial of either an application for flood insurance for the subject property or denial of financing by a lender due to the inability to obtain flood insurance.

Section 2. The applicable ROGO allocation award or building permit that meets all the criteria in Section 1 above may be tolled for a maximum of 180 days or until the injunction is stayed or lifted, whichever comes first.

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PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regularly scheduled meeting of said Board held on the 16th day of November, 2005.

Mayor Dixie Spehar	_____
Mayor Pro Tem Charles "Sonny" McCoy	_____
Commissioner Murray Nelson	_____
Commissioner George Nugent	_____
Commissioner David Rice	_____

(SEAL)

Attest: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

